

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF VIRGINIA  
Norfolk Division

UNITED STATES OF AMERICA

v.

2:06CR91

GERALD THERMOS

Defendant.

REPORT AND RECOMMENDATION  
CONCERNING GUILTY PLEA

Defendant, by consent, has appeared before the undersigned pursuant to Rule 11, Federal Rules of Criminal Procedure, and referral from a United States District Judge and has entered a guilty plea to conspiracy to restrain trade among the states, in violation of 15 U.S.C. § 1. The plea was presented by the United States Attorney in a criminal information after defendant waived indictment in open court.

Defendant was represented by retained counsel, Brian J. Hennigan, Esquire, admitted pro hac vice, and David E. Bell, Esquire. On September 15, 2006, defendant appeared before the Court for the purpose of entering his guilty plea. He was appropriate in appearance, responsive, and competently prepared for the hearing.

Defendant answered all questions put to him in clear and concise language. On those occasions when he had a question, defendant consulted with counsel and then promptly answered. Defendant was courteous and appropriate in his behavior at all times and clearly understood the seriousness of his position. At the close of the proceeding, defendant was placed on bond, and conditions of his release, pending completion of a presentence report, were established.

Defendant is forty-six years of age, has a Bachelor's degree and an M.B.A., and speaks English as his native language. There was no evidence that defendant was on drugs, alcohol, or medication which might impair his judgment. He was cooperative throughout the proceeding.

Defendant entered the guilty plea pursuant to a plea agreement. The plea agreement includes a list of stipulated facts and a joint sentencing recommendation agreed upon by the United States and counsel for defendant. Defendant understands that the sentencing recommendation is not binding upon the Court, that the calculation of the offense level has not been agreed to by probation, and that the Court retains complete control and discretion in the disposition of the case. The Court is completely satisfied, based upon defendant's responses, that he fully appreciates his position. Furthermore, defendant acknowledged that the statement of facts prepared in anticipation of his plea accurately reflects the government's evidence, in the event of trial.

After cautioning and examining defendant under oath concerning each of the subjects mentioned in Rule 11, the Court determined that the offense charged is supported by independent facts, establishing each of the essential elements of such offense. Therefore, the Court recommends that the guilty plea be accepted and that defendant be adjudged guilty and have sentence imposed accordingly.

Failure to file written objections to this report and recommendation within ten days from the date of its service shall bar an

aggrieved party from attacking such report and recommendation before the assigned United States District Judge. 28 U.S.C. § 636(b)(1)(B).

/s/

**James E. Bradberry**  
**United States Magistrate Judge**

**Norfolk, Virginia**

September 18, 2006

Clerk's Mailing Certificate

A copy of the foregoing Report was mailed this date to each of the following:

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Fernando Galindo, Acting Clerk

By \_\_\_\_\_  
Deputy Clerk

\_\_\_\_\_, 2006